



Sac & Fox Gaming Commission
SAC & FOX TRIBE OF THE MISSISSIPPI IN IOWA
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December 3, 2007

Mr. Phillip N. Hogan, Chairman
Mr. Cloyce Choney, Commissioner
Mr. Norm DeRosiers, Commissioner
National Indian Gaming Commission
14411 L St NW, Suite 9100
Washington, DC 20005

Dear Chairman Hogan and Commissioners:

RE: Comments to proposed Facility Licensing Regulations
Published in Federal Register on October 18, 2007

First, The Sac & Fox Gaming Commission objects to the entire Class III facility licensing requirement and states that the NIGC has exceeded its authority by purporting to regulate Class III gaming in contravention of the Indian Gaming Regulatory Act and the decision of the federal court in *Colorado River Indian Tribes v. National Indian Gaming Commission*, 383 F.Supp.2d 23 (D.D.C. 2005), affirmed D.C. Circuit, October 20, 2006. The IGRA itself at section 2710(b) only requires a facility license for Class II gaming. The placing of burdensome requirements on tribes to provide documentation to the NIGC for Class III licensing, particularly for facilities that have been open for years with NIGC approval, is clearly beyond the scope of NIGC's authority. The list of documents to be submitted under the proposed regulations is duplicative of documents the NIGC already possesses in most instances or has readily available at the Department of Interior. The proposed three year licensing period is arbitrary and without statutory authority. For these reasons, the proposed regulations as written should be withdrawn.

Second, should the proposed facility licensing regulations not be withdrawn, the Sac & Fox Gaming Commission has the following comments to Section 559.5, which reads "What must a tribe submit to the Chairman with the copy of each facility license that has been issued?" In particular, we object to Subsection (b), which reads: "A document listing all laws, resolutions, codes, policies or procedures identified by the tribe as applicable to its gaming operations, other than Federal laws, in the following areas: (1) Emergency preparedness, including but not limited to fire suppression, law enforcement, and security; (2) Food and potable water; (3) Construction and maintenance; (4) Hazardous materials; (5) Sanitation (both solid waste and wastewater); and (6) Other environmental or public health and safety standards adopted by the tribe in light of climate, geography, and other local conditions and applicable to its gaming facilities, places or locations."

The Sac & Fox Gaming Commission is concerned because complying with the language as written in subsection (b) will result in an inordinate amount of research and time for identifying and gathering documents, and will create multiple and duplicative listings per area and subpart. As written the language is overbroad and unclear as to whether it requires only a list of items material to the topic, or requires

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detailed identification of specific laws, resolutions, codes, policies or procedures for each area. In order for a gaming operation to efficiently generate useable data for the required submission, the language must be clarified and further defined where it refers to "all laws, resolutions, codes, policies or procedures" as applied to each of the six areas listed and their subparts.

As a matter of practice, the Sac & Fox Gaming Commission ("SFGC") enforces gaming regulations promulgated and adopted under tribal law and in compliance with NIGC regulations, the Compact, the Gaming Ordinance and federal law. The SFGC regulations require the gaming operation to adopt policies and procedures in multiple areas which must be approved by the SFGC prior to implementation or amendment. The SFGC also enforces applicable tribal laws contained in its Tribal Code, and resolutions passed by the Tribal Council. Many of the tribal laws and regulations apply to several areas of the gaming operation, and some overlap. The gaming operation itself has developed numerous policies and procedures to comply with these tribal laws and regulations, some of which are in the form of a manual, and some are individual policies and/or procedures.

The specific NIGC language which is troublesome and which will be extremely time consuming to locate and list, is the requirement for listing all policies and procedures applicable to each of the six areas of the gaming operations. The NIGC has not limited such documents to those materially applicable, nor has it stated that only the name of the manual be listed rather than list each policy and/or procedure. Because it is not clear, it can be inferred that each individual policy and/or procedure is required to be identified and listed in order to comply with this proposed regulation. The Meskwaki Bingo Casino Hotel, the Sac & Fox Tribe, and the Sac & Fox Gaming Commission together have hundreds of policies and procedures that are potentially applicable in some way to individual or multiple items listed in subsection (b) (1) – (6), some of which overlap. We ask the NIGC to specify how detailed the information is to be submitted. We request an option for the gaming operation to list the name of the applicable policy and procedure manual or to identify individual items that are material, and to allow an option to develop and submit a matrix in the form of a table or spreadsheet. We also request the NIGC to include tribal regulation in its list of laws governing the gaming operation.

To reduce paperwork, save time and eliminate confusion, and to prevent multiple listings of the same laws, resolutions, codes, policies or procedures, potentially more than once within each of the six areas and subparts, the Sac & Fox Gaming Commission requests the NIGC to reconsider the intent of Subsection (b)(1)-(6), to clarify exactly what it wants to receive from the gaming operation, or eliminate the identification and listing of individual policies and procedures for all six areas of 559.5.

Thank you for your attention.

Sincerely,



Craig Young Bear
Gaming Commission Chair



Beatrice Young Bear
Gaming Commissioner

Cc: Sac and Fox Tribal Council



Gaming Commission

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